

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

**THE J. EDWARD KLOIAN
FOUNDATION,**

Plaintiff,

Case No. 16-cv-13431

v.

Hon. Denise Page Hood

**VIRGINIA GOODRICH and
JOHN GOODRICH,**

Defendants.

**ORDER DISMISSING PLAINTIFF'S
CAUSE OF ACTION WITHOUT PREJUDICE**

On September 22, 2016, Cummings, McClorey, Davis & Acho, P.L.C., by Linda Davis Friedland ("Plaintiff's counsel"), filed the instant cause of action on behalf of the J. Edward Kloian Foundation (the "Foundation"). On November 18, 2016, Plaintiff's counsel filed a motion for leave to withdraw as counsel for Plaintiff. The Court held a hearing on that motion on December 7, 2016. J. Edward Kloian, the president of the Foundation, appeared at the hearing and expressed no objection to Plaintiff's counsel's motion.

As neither Mr. Kloian nor Defendants objected to the motion filed by Plaintiff's counsel, the Court granted Plaintiff's counsel's motion and removed Plaintiff's counsel as counsel for the Foundation. In addition to granting Plaintiff's counsel's motion to withdraw as counsel, the Court ORDERED that:

1. Plaintiff [the Foundation] shall proceed in pro se at this time; and

2. Plaintiff intends to, and shall attempt to, obtain replacement counsel within thirty days of the date of filing of this Order; and
3. If no appearance by counsel for Plaintiff is filed with the Court, together with a response to – or other filing regarding -- Defendants' pending Motion to Dismiss, Plaintiff shall appear in court for the hearing on the Motion to Dismiss, scheduled for a hearing on **February 1, 201[7] at 2:30 P.M.**; and
4. Failure to file appearances or appear as ordered herein may result in involuntary dismissal of this action pursuant to *F.R.Civ.P. 41(b)*.

Since the entry of the Order granting Plaintiff's counsel's motion to withdraw on December 8, 2016, no appearance has been filed on behalf of the Foundation.

In reviewing the Complaint in conjunction with a Motion to Dismiss filed by Defendants, the Court noted that the plaintiff (the Foundation) is not an individual but is instead a nonprofit, tax-exempt charity. Although an individual party may proceed in *pro se* on his or her own claim, only licensed attorneys may represent corporations in federal court. 28 U.S.C. § 1654; *United States v. 9.19 Acres of Land, More or Less, in Marquette County, Michigan*, 416 F.2d 1244, 1245 (6th Cir. 1969). A corporate president (such as Mr. Kloian), officer, agent, or shareholder may not represent a corporation before a federal court. *9.19 Acres of Land*, 416 F.2d at 1245; *Nat'l Labor Relations Board v. Consol. Food Servs., Inc.*, 81 F. App'x 13 n.1 (6th Cir. 2003) (citations omitted). The rule applies to all other

artificial entities, such as partnerships, unincorporated associations, and trusts. *See Rowland v. California Men's Colony*, 506 U.S. 194, 202 (1993); *Dimercurio v. Comm'r of Internal Revenue*, No. 08-1378, 2008 WL 5784519 (6th Cir. June 16, 2008). If no attorney files an appearance on behalf of a plaintiff entity, the complaint may be dismissed without prejudice. *Cheung v. Youth Orchestra Foundation of Buffalo, Inc.*, 906 F.2d 59, 62 (2d Cir. 1990).

The Foundation is not an individual, and the Court finds that the Foundation must be represented by an attorney to proceed before this Court. No attorney has filed an appearance on behalf of the Foundation, even though nearly two months have passed since the December 7, 2016 hearing. The Court concludes that dismissal of the Foundation's cause of action, without prejudice, is warranted and necessary at this time. In the event the Foundation obtains legal counsel, that legal counsel may re-file the Foundation's cause of action.

For the reasons stated above,

IT IS ORDERED that the instant cause of action is DISMISSED WITHOUT PREJUDICE. Judgment shall be entered accordingly.

IT IS ORDERED.

S/Denise Page Hood

Denise Page Hood

Chief Judge, United States District Court

Dated: January 31, 2017

I hereby certify that a copy of the foregoing document was served upon counsel of record on January 31, 2017, by electronic and/or ordinary mail.

S/LaShawn R. Saulsberry

Case Manager